REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-3, 5-9 and 12 are rejected under 35 U.S.C 102(b) over the patent to Topchiashvili in view of the U.S. patent to Takashi or international patent document WO 03/102091 and U.S. patent to Hallaway.

Claims 1-3, 5-9 and 12 are also rejected under 35 U.S.C. 103(a) over the patent to Topchiashvili in view of the U.S. patent to Takashi and Hallaway.

Claims 4 and 10-11 are rejected under 35 U.S.C. 103(a) over the patent to Topchiasvili in view of the patents to Takashi, Hallaway and Doice.

Claims 4 and 10-11 are rejected under 35 U.S.C. 103(a) over the patent to Topchiasvili in vie wof the patent to Takashi, Hallaway and Doice.

Also, the claims are rejected under 35 U.S.C. 112.

In connection with the rejection of the claims, the claims have been amended.

First of all the Examiner's rejection is not completely understood because the Examiner rejected the claims as anticipated in view of other references. It is believed that the Examiner's was to reject the claims as anticipated over the patent to Topchiasvili only. In connection with this, it is believed to be advisable to cite the decision in re Lindenman Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

> "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the patent to Topchiasvili does not disclose each and every element of the claims rejected by the Examiner under 35 U.S.C. 102(b) and therefore the anticipation rejection should be considered as not tenable with respect to these claims and should be withdrawn.

As for the Examiner's rejection as obvious under 35 U.S.C. 103, it is respectfully submitted that since none of the references teaches the new features of the present invention as defined in the claims, any

combination produced from these references would not lead to the applicant's invention as defined in the claims rejected over such a combination. In order to arrive at the applicant's invention from the combination of the references, the references have to be fundamentally modified, in particular, by including into them the new features of the present invention which are now defined in the claims rejected under 35 U.S.C. 103. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals, which for example, held in its decision in re Randol and Redford (165 USPQ 586) that

> Prior patents are references only for what they clearly disclose or suggest, it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

In view of the above presented remarks and amendments, it is believed that the claims currently on file should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,

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Extension Request
Please extend the term for response by 2 months and charge to a/c. 26-0085.